

REMARKS

The applicant has filed an RCE to request continued examination of the present application. By the filing of this RCE under 37 CFR 1.114(d), applicant requests the withdrawal of the application from appeal as filed February 12, 2003 and reopening of the prosecution of the application. The applicant provides this response with the RCE to amend the claims and to provide remarks regarding the patentability of the invention.

Previously pending claims 1-4, 6-7, 11, 13, 18, 20, 22, 25, 30 and 33-35 have been canceled, and claims 36-51 have been added. These amendments are believed to be proper, do not introduce new matter, and serve to place the application in condition for continued examination and allowance. Thus claims 36-50 are pending in the application, with claims 8-10 and 15-17 being withdrawn from consideration.

In the Final Office Action mailed November 27, 2002, claims 1-4, 6-7, 11, 13, 18, 20, 22, 25, 30 and 33-35 were rejected under 35 U.S.C. § 112, second paragraph, while claim 4 was rejected under 35 U.S.C. § 112, first paragraph. Claims 1, 3, 4, 7, 22 and 25 were rejected under 35 U.S.C. § 102(b) as being anticipated by Takatsuka et al. (JP 04-205776 A). Claims 2, 6, 11, 13, 18, 20, 30 and 33-35 were also rejected as being unpatentable under Takatsuka under 35 U.S.C. § 103(a).

Rejection under 35 U.S.C. §112

As discussed above, claims 1-4, 6-7, 11, 13, 18, 20, 22, 25, 30 and 33-35 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-4, 6-7, 11, 13, 18, 20, 22, 25, 30 and 33-35 have been cancelled, thus obviating the rejection. Claims 36-51 are added in an effort to enable further prosecution on the merits of the application. Applicant maintains its traverse to the rejections as provided by the Examiner in the previous office action, and reserves the

right to re-introduce the subject matter of the canceled claims as necessary at a later time.

Newly added independent claims 36, 46 and 51 draw support from the specification and from the knowledge of those skilled in the art. The width, length and height of a standard form factor would be well known by those skilled in the art.

As such, the ratio of a width of a standard form factor housing to a diameter of a disc would also be known and appreciated by one skilled in the art. In the instance of a 3 ½ inch form factor, a description may specifically be found in the specification at page 5, lines 13-15. Additional ranges have been added to provide definiteness to the claims. As is known in the art, the width of the standard 3 ½ in form factor is 101.6 mm. The standard disc diameter for a 3 ½ inch form factor is 95 mm (page 5, lines 17-19), with this invention claiming a diameter of 84 mm (page 10, lines 14-16). For example, the same ratio may be derived from, a 5 ¼ form factor with a width of 146.1 mm and its respective standard disc diameter of 130 mm, that is well-known by those skilled in the art. All claims that depend from the independent claims incorporate additional limitations to the invention as described in the specification.

Applicant respectfully submits that the claims as currently pending particularly point out and distinctly claim the subject matter that the Applicant regards as the invention as required under 35 USC 112, paragraph 2 and are thus allowable. Applicant respectfully requests that the claims be allowed to pass to issuance.

Previously pending claim 4 was rejected under 35 U.S.C. 112, first paragraph as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in art that the inventor had possession of the claimed invention at the time of filing the application. As claim 4 has been canceled, this rejection is obviated.

Rejection under 35 U.S.C. § 102

Claims 1, 3, 4, 7, 22 and 25 were rejected under 35 U.S.C. § 102(b) as being anticipated by Takatsuka et al. (JP 04-205776 A). As indicated above, the rejected claims have been canceled, thus obviating the rejection. Newly added independent claims 36, 46 and 51, along with their respective dependent claims, incorporate limitations not claimed or described in Takatsuka, thus making the present application allowable over the reference. Applicant maintains its traverse to the rejections as provided by the Examiner in the previous office action, and reserves the right to re-introduce the subject matter of the canceled claims as necessary at a later time.

Rejection under 35 U.S.C. § 103

Claims 2, 6, 11, 13, 18, 20, 30 and 33-35 were rejected as being unpatentable over Takatsuka under 35 U.S.C. § 103(a). All of the previously rejected claims have been canceled, therefore obviating the rejection. As above, Applicant maintains its traverse to the rejections as provided by the Examiner in the previous office action, and reserves the right to re-introduce the subject matter of the canceled claims as necessary at a later time. The subject matter of the newly added claims is such that there is no suggestion to modify Takatsuka to arrive at the current invention. This, alone and in combination with the previously demonstrated commercial success of products incorporating the invention as described in the present application, shows that the claims as currently pending are not obvious in light of Takatsuka and should be allowed to pass to issuance.

CONCLUSION

In conclusion, Applicant submits that the claims of the present invention particularly point out and distinctly claim the subject matter that is regarded as the invention. In addition, the present invention as claimed is not anticipated by or obvious

in view of the prior art of record or any combination thereof. As all previous claims, with the exception of those withdrawn from consideration, are canceled thus obviating the previous rejections, Applicant respectfully requests that pending claims 8-10, 15-17 and 36-51 be considered and allowed. Favorable action with respect to the present application is respectfully requested.

Respectfully submitted,

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Date

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